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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1108

Introduced by Assembly Member Fuentes

February 27, 2009

An act to amend Sections 739.5, 2791, 2796, and 2797 of, to repeal Sections 2793, 2794, 2795, and 2799 of, and to repeal and add Sections 2792 and 2798 of, the Public Utilities Code, relating to utility service.

LEGISLATIVE COUNSEL'S DIGEST

AB 1108, as amended, Fuentes. Electric and gas utility service: master-meter customers.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporation. Existing law additionally requires the electrical or gas corporation to establish uniform rates to master-meter customers at a level that will provide a

sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service (master-meter discount). Existing law provides that every master-meter customer is responsible for the maintenance and repair of its submeter facilities beyond the master-meter.

This bill would make the existing provisions of law relating to master-meter customers applicable only to master-meter customers providing submetered service to tenants of an apartment building or similar multifamily residential dwelling. The bill would adopt separate provisions that are applicable to a master-meter customer that provides submetered service to tenants of a mobilehome park or manufactured housing community. These provisions would authorize the commission, if it finds that a master-meter customer has failed to maintain or repair its submeter facilities beyond the master-meter, to order the master-meter customer to maintain or repair those facilities and would authorize the commission, in addition to the commission's authority to make or enforce orders pursuant to the Public Utilities Act, to order that certain moneys received as a result of the master-meter discount be held in trust to be expended for maintenance and repair of the submetered facilities of the mobilehome park or manufactured housing community. The bill would require a master-meter customer to separately bill tenants of a mobilehome park or manufactured housing community for gas or electric service, or both, and rent, and would prohibit the master-meter customer from charging a user of electricity or gas any late charge for nonpayment or delayed payment of rent. The bill would require that any late charge imposed by a master-meter customer for nonpayment or delayed payment by a user for gas or electric service at a mobilehome park or manufactured housing community be in an amount that does not exceed that which the electrical or gas corporation would charge for nonpayment or delayed payment for electric or gas service.

(2) Existing law authorizes the owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents to transfer ownership and operational responsibility for its gas or electric system to the gas or electrical corporation providing service in the area in which the park or community is located, pursuant to specified transfer and cost allocation procedures.

This bill would require the owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric

service to residents to transfer ownership and operational responsibility for its gas or electric system to the gas or electrical corporation providing service in the area in which the park or community is located. The bill would require the commission, by January 1, 2010, to open a proceeding to adopt rules that establish the terms and conditions for the transfers, that balance certain goals and requirements. The commission would be required, *in coordination with the Department of Housing and Community Development and the county departments of weights and measures*, to prioritize the transfer of gas or electric systems with unsafe or substandard conditions. The bill would require the commission to permit the gas or electrical corporation to recover, in its revenue requirements and rates, the costs the commission finds reasonable to acquire, improve, and upgrade transferred mobilehome park or manufactured housing community gas or electric systems and would require, to the extent practical, that these costs be collected over 2 rate case cycles, rather than in a single cycle. The bill would require the commission, by January 1, ~~2011~~ 2012, to adopt a standard form agreement for transfer of gas and electric systems in mobilehome parks and manufactured housing communities, based upon the rules adopted by the commission, that would be the basis for expedited approval of the transfers. The bill would require that transfers commence as soon as the standard contract is available, to proceed according to the process adopted by the commission, ~~and to be completed by January 1, 2016.~~

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 739.5 of the Public Utilities Code is
2 amended to read:

1 739.5. (a) (1) The commission shall require that, if gas or
2 electric service, or both, is provided by a master-meter customer
3 to users who are tenants of an apartment building or similar
4 multifamily residential dwelling, the master-meter customer shall
5 charge each user of the service at the same rate that would be
6 applicable if the user were receiving gas or electricity, or both,
7 directly from the gas or electrical corporation.

8 (2) The commission shall require the gas or electrical
9 corporation furnishing service to the master-meter customer to
10 establish uniform rates for master-meter service at a level that will
11 provide a sufficient differential to cover the reasonable average
12 costs to master-meter customers of providing submeter service at
13 an apartment building or similar multifamily residential dwelling,
14 except that these costs shall not exceed the average cost that the
15 corporation would have incurred in providing comparable services
16 directly to the users of the service.

17 (b) Every master-meter customer of a gas or electrical
18 corporation subject to subdivision (a) who receives any rebate
19 from the corporation shall distribute to, or credit to the account of,
20 each current user served by the master-meter customer that portion
21 of the rebate which the amount of gas or electricity, or both,
22 consumed by the user during the last billing period bears to the
23 total amount furnished by the corporation to the master-meter
24 customer during that period.

25 (c) An electrical or gas corporation furnishing service to a
26 master-meter customer shall furnish to each user of the service
27 within a submetered system at an apartment building or similar
28 multifamily residential dwelling every public safety customer
29 service which it provides beyond the meter to its other residential
30 customers. The corporation shall furnish a list of those services to
31 the master-meter customer, who shall post the list in a conspicuous
32 place accessible to all users. Every corporation shall provide these
33 public safety customer services to each user of electrical or gas
34 service under a submetered system without additional charge unless
35 the corporation has included the average cost of these services in
36 the rate differential provided to the master-meter customer on
37 January 1, 1984, in which case the commission shall deduct the
38 average cost of providing these public safety customer services
39 when approving rate differentials for master-meter customers.

1 (d) Every master-meter customer at an apartment building or
2 similar multifamily residential dwelling is responsible for
3 maintenance and repair of its submeter facilities beyond the
4 master-meter, and nothing in this section requires an electrical or
5 gas corporation to make repairs to or perform maintenance on the
6 submeter system.

7 (e) Every master-meter customer at an apartment building or
8 similar multifamily residential dwelling shall provide an itemized
9 billing of charges for electricity or gas, or both, to each user
10 generally in accordance with the form and content of bills of the
11 gas or electrical corporation to its residential customers, including,
12 but not limited to, the opening and closing readings for the meter,
13 and the identification of all rates and quantities attributable to each
14 block in the applicable rate structure. The master-meter customer
15 shall also post, in a conspicuous place, the applicable prevailing
16 residential gas or electrical rate schedule, as published by the
17 corporation.

18 (f) The commission shall require that every electrical and gas
19 corporation shall notify each master-meter customer at an
20 apartment building or similar multifamily residential dwelling of
21 its responsibilities to its users under this section.

22 (g) The commission shall accept and respond to complaints
23 concerning the requirements of this section through the consumer
24 affairs branch, in addition to any other staff that the commission
25 deems necessary to assist the complainant. In responding to the
26 complaint, the commission shall consider the role that the office
27 of the county sealer in the complainant's county of residence may
28 have in helping to resolve the complaint and, where appropriate,
29 coordinate with that office.

30 (h) Notwithstanding any other provision of law or decision of
31 the commission, the commission shall not deny eligibility for the
32 California Alternate Rates for Energy (CARE) program, created
33 pursuant to Section 739.1, for a residential user of gas or electric
34 service who is a submetered resident or tenant served by a
35 master-meter customer on the basis that some residential units in
36 the master-meter customer's apartment building or similar
37 multifamily residential dwelling do not receive gas or electric
38 service through a submetered system.

39 SEC. 2. Section 2791 of the Public Utilities Code is amended
40 to read:

1 2791. The owner of a master-metered mobilehome park or
2 manufactured housing community that provides gas or electric
3 service to residents shall transfer ownership and operational
4 responsibility for the gas or electric system to the gas or electrical
5 corporation providing service in the area in which the park or
6 community is located pursuant to this chapter, or as the park or
7 community owner and the serving gas or electrical corporation
8 mutually agree.

9 SEC. 3. Section 2792 of the Public Utilities Code is repealed.

10 SEC. 4. Section 2792 is added to the Public Utilities Code, to
11 read:

12 2792. (a) (1) The commission shall, prior to transfer, require
13 that, if gas or electric service, or both, is provided by a
14 master-meter customer to users who are tenants of a mobilehome
15 park or manufactured housing community, the master-meter
16 customer shall charge each user of the service at the same rate that
17 would be applicable if the user were receiving gas or electricity,
18 or both, directly from the gas or electrical corporation.

19 (2) The commission shall, prior to transfer, require the gas or
20 electrical corporation furnishing service to the master-meter
21 customer to establish uniform rates for master-meter service at a
22 level that will provide a sufficient differential to cover the
23 reasonable average costs to master-meter customers of providing
24 submeter service to tenants of a mobilehome park or manufactured
25 housing community, except that these costs shall not exceed the
26 average cost that the corporation would have incurred in providing
27 comparable services directly to the users of the service.

28 (b) Every master-meter customer of a gas or electrical
29 corporation subject to subdivision (a) who receives any rebate
30 from the corporation shall distribute to, or credit to the account of,
31 each current user served by the master-meter customer that portion
32 of the rebate which the amount of gas or electricity, or both,
33 consumed by the user during the last billing period bears to the
34 total amount furnished by the corporation to the master-meter
35 customer during that period.

36 (c) A gas or electrical corporation furnishing service to a
37 master-meter customer shall, prior to transfer, furnish to each user
38 of the service within a submetered system of a mobilehome park
39 or manufactured housing community, every public safety customer
40 service which it provides beyond the meter to its other residential

1 customers. The corporation shall furnish a list of those services to
2 the master-meter customer, who shall post the list in a conspicuous
3 place accessible to all users. Every corporation shall provide these
4 public safety customer services to each user of gas or electrical
5 service under a submetered system without additional charge unless
6 the corporation has included the average cost of these services in
7 the rate differential provided to the master-meter customer on
8 January 1, 1984, in which case the commission shall deduct the
9 average cost of providing these public safety customer services
10 when approving rate differentials for master-meter customers.

11 (d) (1) Prior to transfer, every master-meter customer providing
12 submetered service to tenants of a mobilehome park or
13 manufactured housing community is responsible for maintenance
14 and repair of its submetered facilities beyond the master-meter,
15 and nothing in this section requires a gas or electrical corporation,
16 prior to transfer, to make repairs to or perform maintenance on the
17 submetered system.

18 (2) If the commission finds, prior to transfer, that a master-meter
19 customer has failed to maintain or repair its submetered facilities
20 beyond the master-meter, the commission may order the
21 master-meter customer to maintain or repair those facilities.

22 (3) In addition to any authority granted the commission to make
23 or enforce orders pursuant to Chapter 11 (commencing with Section
24 2100) of Part 1, if the commission finds, prior to transfer, that a
25 master-meter customer has failed to maintain or repair its
26 submetered facilities beyond the master-meter, the commission
27 may order the portion of the rate differential established pursuant
28 to subdivision (a) for an electric plant or a gas plant be held in trust
29 to be expended for maintenance and repair of the submetered
30 facilities.

31 (e) (1) Every master-meter customer shall, prior to transfer,
32 provide an itemized billing of charges for gas or electricity, or
33 both, to each user generally in accordance with the form and
34 content of bills of the gas or electrical corporation to its residential
35 customers, including, but not limited to, the opening and closing
36 readings for the meter, and the identification of all rates and
37 quantities attributable to each block in the applicable rate structure.
38 The master-meter customer shall also post, in a conspicuous place,
39 the applicable prevailing residential gas or electrical rate schedule,
40 as published by the corporation.

(2) Notwithstanding any other provision of law, prior to transfer of the submetered system to the gas or electrical corporation, a master-meter customer shall separately bill each user for gas or electric service, or both, and rent.

(3) A master-meter customer shall not, prior to transfer of the submetered system to the gas or electrical corporation, charge a user of gas or electricity any late charge for gas or electric service as a result of nonpayment or delayed payment of rent. For nonpayment or delayed payment of gas or electric service by a user, the master-meter customer may impose a late charge up to an amount that does not exceed that which the gas or electrical corporation would charge for nonpayment or delayed payment for gas or electric service.

(f) The commission shall require that every gas and electrical corporation notify each master-meter customer of its responsibilities to its users under this section.

(g) The commission shall accept and respond to complaints concerning the requirements of this section through the consumer affairs branch, in addition to any other staff that the commission deems necessary to assist the complainant. In responding to the complaint, the commission shall consider the role that the office of the county sealer in the complainant's county of residence may have in helping to resolve the complaint and, where appropriate, coordinate with that office.

(h) Notwithstanding any other provision of law or decision of the commission, the commission shall not deny eligibility for the California Alternate Rates for Energy (CARE) program, created pursuant to Section 739.1, for a residential user of gas or electric service who is a submetered resident or tenant served by a master-meter customer on the basis that some residential units in the master-meter customer's mobilehome park or manufactured housing community do not receive gas or electric service through a submetered system.

SEC. 5. Section 2793 of the Public Utilities Code is repealed.

SEC. 6. Section 2794 of the Public Utilities Code is repealed.

SEC. 7. Section 2795 of the Public Utilities Code is repealed.

SEC. 8. Section 2796 of the Public Utilities Code is amended to read:

2796. (a) During the pendency of a transfer, the owner of the park or community shall be responsible for the continued

1 maintenance to preserve the integrity of the park or community
2 gas or electric system and safe and reliable operation of the park
3 or community system in accordance with applicable laws.

4 (b) During the pendency of a transfer, the owner of the park or
5 community shall be liable for injury and damage resulting from
6 operation of the submetered gas and electric system. After transfer,
7 the gas or electrical corporation shall assume responsibility for
8 operation of the gas or electric system and provision of service to
9 residents of the park or community and shall assume liability for
10 any future injury or damage resulting from operation of the gas or
11 electric system except with respect to defects known to the park
12 or community owner and not disclosed to the gas or electrical
13 corporation during the transfer of ownership process.

14 SEC. 9. Section 2797 of the Public Utilities Code is amended
15 to read:

16 2797. The commission shall permit the gas or electrical
17 corporation to recover in its revenue requirement and rates the
18 costs the commission finds reasonable to acquire, improve, and
19 upgrade transferred mobilehome park or manufactured housing
20 community gas or electric systems, as well as the reasonable costs
21 associated with operating and maintaining the transferred systems.

22 SEC. 10. Section 2798 of the Public Utilities Code is repealed.

23 SEC. 11. Section 2798 is added to the Public Utilities Code,
24 to read:

25 2798. (a) By January 1, 2010, the commission shall open a
26 proceeding to adopt rules that establish the terms and conditions,
27 including cost responsibilities, for the transfers required by Section
28 2791. The rules shall balance the goal of making residents of
29 mobilehome parks and manufactured housing communities
30 customers of record of the serving gas or electrical corporation as
31 expeditiously as possible and the requirement of fairness to
32 ratepayers, who have already reimbursed the master-meter
33 customer for maintenance costs, operating costs, return on
34 investment, and depreciation, as well as other costs associated with
35 providing submetered electric and gas service, through the rate
36 differential afforded master-meter customers pursuant to Section
37 739.5.

38 (b) In adopting rules governing the transfers required by Section
39 2791, the commission shall also adopt a process for ordering the
40 transfers to ensure that any reasonable costs associated with

1 acquiring, improving, or upgrading the gas or electric systems that
2 will be borne by the ratepayers of the serving gas or electrical
3 corporation are collected in rates over two rate case cycles, rather
4 than in a single cycle, to the extent practicable. The ~~commission~~
5 *commission, in coordination with the Department of Housing and*
6 *Community Development and the county departments of weights*
7 *and measures*, shall prioritize the transfer of mobilehome parks
8 and manufactured housing communities that have gas or electric
9 systems with unsafe or substandard conditions.

10 (c) By January 1, ~~2011~~ 2012, the commission shall adopt a
11 standard form of agreement for transfer of a gas or electric system
12 in a mobilehome park or manufactured housing community, based
13 on the rules adopted in the proceeding required by this section,
14 that shall be the basis for expedited approval of the transfers.
15 Transfers shall commence as soon as the standard contract is
16 available and proceed according to the process adopted by the
17 commission.

18 ~~(d) All transfers required by Section 2791 shall be completed~~
19 ~~by January 1, 2016.~~

20 SEC. 12. Section 2799 of the Public Utilities Code is repealed.

21 SEC. 13. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.